



## North Dakota Department of Health HIPAA Policy

<b>Policy Title:</b>	<b>Personal Representatives</b>	
<b>Policy Number:</b>	P-015	<b>Version:</b> 1.0
<b>Reference:</b>	45 CFR 164.502(g)	
<b>Applicability:</b>	Department of Health	
<b>Approved By:</b>	Dr. Terry Dwelle, State Health Officer Arvy Smith, Deputy State Health Officer Darleen Bartz, HIPAA Coordinator, Privacy Officer	
<b>Effective Date:</b>	April 14, 2003	

### **Policy:**

The NDDoH will treat a personal representative as the individual for purposes relating to the use and disclosure of protected health information.

### **Exceptions:**

The NDDoH will not treat a person as a personal representative if the NDDoH has reason to believe that the individual has been or may be subject to domestic violence, abuse, neglect or other endangerment by the personal representative or if it is not in the best interest of the individual.

### **Procedure:**

- The NDDoH will treat a person who has legal authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care as a personal representative.
- The NDDoH will treat a parent, guardian or other person acting in loco parentis who has authority to act on behalf of an unemancipated minor, as a personal representative except if:
  - The minor consents to the health care service, no other consent is required by law and the minor has not requested the person be treated as a personal representative;
  - The minor can lawfully obtain such services without the consent of a parent, guardian or other person acting in loco parentis and the minor, court or other authorized person consents to the service;
  - An agreement of confidentiality has been agreed upon between the NDDoH and the minor for the service.
- The NDDoH will treat an executor, administrator or other authorized individual as a deceased individual's personal representative.

- Verify the identity of the Personal Representative as outlined in the policy titled Verification of Identity.

**Related Forms:**

None

**Definitions:**

*NDDoH* – North Dakota Department of Health

*Protected Health Information* – Individually identifiable health information that is transmitted or maintained by electronic media or transmitted or maintained in any other form or medium

*Individually Identifiable Health Information* – Health information which includes demographic information that relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual and that identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual

*Electronic Media* – Electronic storage media including memory devices in computers and any removable/transportable digital memory medium such as magnetic tape or skid, optical disk or digital memory card; or transmission media used to exchange information already in electronic storage media. Transmission media includes the internet, extranet, leased lines, dial-up lines, private networks and the physical movement of removable/transportable electronic storage media

*Personal Representative* – A person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or by court approval, to a health care service, or where the parent, guardian or person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor